

REMARKS

In the Final Office Action, Claims 2 and 8-10 were rejected under 35 U.S.C. §112, second paragraph as being indefinite; and Claims 1-14 were rejected under 35 U.S.C. 103(a) as being 35 U.S.C. 103(a) as being unpatentable over Edwards et al. (U.S. Patent 7,461,164) in view of Baiocchi et al. (IP QoS Delivery in a Broadband Wireless Local Loop: MAC Protocol Definition and Performance Evaluation, IEEE Journal on Selected Areas in Communication, Vol. 18, No. 9, September 2000).

Claims 2 and 8 are amended. No new matter is introduced.

Claims 1-14 are pending in the application.

Regarding the rejection of Claims 2 and 8-10 under §112, second paragraph, the Examiner states that the claims are indefinite.

With respect to Claim 2, the Examiner alleges that “wherein the data packets classified by the classifier are data packets that are determined as admitted by the admission controller after being classified by the classifier” is indefinite. The amendment to Claim 2 made herein recites that the first module further includes an admission controller that determines admission or discard of the data packets after being classified by the classifier. It is submitted that the amendment to Claim 2 overcomes the rejection of Claim 2 under §112, second paragraph.

With respect to Claim 8, the Examiner alleges that “providing second priorities to the data packets based on characteristics of the data packets provided the first priorities independently of the QoS policy” is indefinite. As a threshold matter, the Examiner’s statement regarding Claim 8 is unfounded. Claim 8 recites that first priorities are provided based on QoS. The claims recite providing data packets with two separate and distinct priority levels. The second priorities are not based on QoS. The first and second priorities are provided in separate and distinct operations resulting in two separate and distinct priorities provided to the data packets. Nonetheless, the amendment to Claim 8 made herein recites providing second priorities to the data packets based on characteristics of the data packets independently of the QoS policy. It is submitted that the amendment to Claim 8 overcomes the rejection of Claim 8, as well as Claims 9-10, under §112, second paragraph.

Regarding the rejection of independent Claims 1, 8 and 11 under §103(a), the Examiner

alleges that the combination of Edwards and Baiocchi renders the claims unpatentable.

Each of Claims 1, 8 and 11 recite, in one form or another, a terminal that provides first priorities to classified data packets and provides second priorities to PDUs. For example, in Claim 1, the terminal includes a first module that corresponds to a MAC software unit and provides first priorities to the classified data packets and a second module that corresponds to a MAC hardware unit and provides second priorities for PDUs.

Initially it is noted that it does not appear that the Examiner is addressing in the Response to Arguments section of the Office Action the arguments presented in the prior amendment. It is requested that the Examiner fully address the arguments.

With respect to Claim 1, this claim recites two priority controllers, a first priority controller that gives first priorities to classified data packets according to the QoS policy, and a second priority controller for determining second priorities of PDUs according to characteristics of the data packets. Thus, in Claim 1, the terminal sets two different priorities; one based on a QoS policy for data packets and one based on characteristics of the data packets for PDUs. The PDUs are constructed from the data packets. The Examiner alleges that Edwards teaches these features.

In col. 9, lines 8-40, Edwards teaches a hardware-based MAC component and a software-based MAC component. Both the hardware-based MAC component and the software-based MAC component operate on packets; no operations on PDUs are disclosed. Although Baiocchi teaches generating PDUs, the combination would only produce a system that continues to operate Edwards' hardware-based and software-based MAC components on packets.

With respect to Claim 8, this claim recites providing first and second priorities. The first priorities are provided to data packets classified according to a QoS policy. The second priorities are provided data packets sequentially output according to the first priorities; the second priorities are not a QoS policy priority. The Examiner alleges that Edwards teaches these features.

Again, Edwards teaches a hardware-based MAC component and a software-based MAC component. Edwards does not specifically teach or disclose that second priorities are provided data packets sequentially output according to the first priorities. Baiocchi does not cure the

defects of Edwards.

With respect to Claim 11, this claim recites that packets are classified and stored based on a QoS policy; it is then determined whether to admit or discard the packets, then, only the admitted packets are provided a priority. The Examiner alleges, “‘classifying’ and ‘determining admission or discard of the classified data packets’ must inherently be present in Edwards (although not explicitly mentioned).” Inherency can only be used for matters that are undisputed. See, e.g. MPEP §2112. Edwards could be a system that admits all packets all the time or could be a system that discards all packets all the time; thus “determining admission or discard of the classified data packets” is not inherent in Edwards.

For at least the above reasons, the rejections must be withdrawn. In addition, it must be considered that the present invention provides the first priorities to data packets based on a QoS policy and then provides the second priorities to the data packets, which are provided with the first priorities, based on characteristics of the data packets. Edwards, however, only discloses that a software MAC component provides a priority to a packet and selectively writes the packet in a queue according to the priority, and a hardware MAC component stores the packet from the queue to one of transmission queues that are provided with priorities.

As indicated above, Edwards only transmits a packet from one of the transmission queues that are provided with priorities while the present invention provides the second priorities to the data packets, which are provided with the first priorities, based on the characteristics of the data packets and sorting the data packet based on the second priorities. Therefore, Edwards fails to disclose or suggest providing a priority to a data packet that has been already provided with another priority, based on the character of data packet. The amendment to Claim 8 clarifies these features of the present invention.

For the above reasons, independent Claims 1, 8 and 11 are believed to be in condition for allowance. Without conceding the patentability of the dependent claims *per se*, Claims 2-7, 9 and 10 are patentable and allowable for at least the same reasons as set forth above for independent Claims 1, 8 and 11.

Accordingly, all of the claims pending in the Application, namely, Claims 1-14 are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", is written over the printed name.

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